

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
BellSouth Telecommunications, Inc.)	
Tariff FCC No. 1)	WCB/Pricing No. 02-15
Transmittal No. 629)	
)	

ORDER

Adopted: May 10, 2002

Released: May 10, 2002

By the Deputy Chief, Pricing Policy Division:

I. INTRODUCTION

1. In this order we suspend for five months and set for investigation BellSouth Telecommunications, Inc. (BellSouth) Tariff FCC No. 1, Transmittal No. 629. This transmittal seeks to establish rate increases, over a two-year period, to recover extraordinary costs associated with the implementation of thousands-block number pooling.

II. BACKGROUND

2. In its Number Resource Optimization *Third Report and Order*,¹ the Commission sought to build on its efforts to ensure continued efficient use of the limited numbering resources of the North American Numbering Plan (NANP) so that these resources do not exhaust prematurely. In addition, the Commission sought to ensure that all carriers have the numbering resources necessary to compete in the telecommunications marketplace. The *Third Report and Order* specifically addressed the federal cost recovery for national thousands-block number pooling. The Commission concluded that many of the costs associated with thousands-block number pooling are ordinary costs for which no additional special recovery would be appropriate. The Commission also addressed specific cost recovery provisions for price cap local exchange carriers.

3. On April 26, 2002, BellSouth filed Transmittal No. 629, revising Tariff FCC No. 1, with a scheduled effective date of May 11, 2002. On May 3, 2002, AT&T Corp. (AT&T)

¹ *Numbering Resource Optimization*, CC Docket Nos. 96-98 and 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252 (2001)(*Third Report and Order*).

filed a petition to reject or, in the alternative, to suspend and investigate the BellSouth tariff.² WorldCom, Inc. (WorldCom) also petitions to reject or, in the alternative, to suspend and investigate on May 3, 2002.³ BellSouth filed its reply to the petitions of AT&T and WorldCom on May 7, 2002.⁴

4. AT&T asserts that BellSouth does not meet its burden of proof necessary to overcome the presumption established in the *Third Report and Order* that the recovery of costs of numbering administration is already provided for in LEC compensation.⁵ AT&T further argues that BellSouth does not adequately demonstrate that all costs for which it seeks exogenous adjustment are eligible costs.⁶ AT&T states that BellSouth fails to demonstrate that thousands-block number pooling results in a net cost increase rather than a net cost reduction.⁷ AT&T further asserts that permitting BellSouth's tariff to go into effect would be inconsistent with the Commission's prior orders and statutory requirement for competitive neutrality.⁸ WorldCom contends that BellSouth includes Operational Support Systems (OSS) costs that do not meet the *Third Report and Order's* cost recovery standards.⁹ In its reply, BellSouth generally argues that none of the claims of AT&T or WorldCom raise questions of lawfulness sufficient to warrant suspension or rejection.¹⁰

5. BellSouth asserts as a procedural defect that AT&T failed to properly serve its petition on BellSouth. Accordingly, BellSouth contends that the Commission should strike and disregard AT&T's petition.¹¹ On May 9, 2002, AT&T noted the cause for late service to BellSouth as problems related to fax machine operations.¹² AT&T apologizes for its late service and points out that it was successful in faxing its petition to BellSouth's offices in Washington, D.C.¹³ AT&T further asserts that striking its petition would not serve the public interest and

² Petition of AT&T Corp., filed May 3, 2002 ("AT&T Petition").

³ Petition of WorldCom, Inc., filed May 3, 2002 ("WorldCom Petition").

⁴ Reply of BellSouth Telecommunications, Inc., filed May 7, 2002 ("BellSouth Reply").

⁵ AT&T Petition at 5-9, citing *Third Report and Order* at 270, para. 37.

⁶ *Id.* at 9-19.

⁷ *Id.* at 19-23.

⁸ *Id.* at 24-26.

⁹ WorldCom Petition at 2-4.

¹⁰ BellSouth Reply at 2.

¹¹ BellSouth Reply at 1-2.

¹² AT&T Corp. Letter filed May 9, 2002.

¹³ *Id.*

requests that the Commission accept its petition.¹⁴

III. DISCUSSION

6. The *Third Report and Order* provides that any adjustment to price caps resulting from the Commission's thousands-block number pooling mandates shall be made as a claim for extraordinary exogenous adjustment. That Order further states that LECs seeking extraordinary recovery of thousands-block number pooling costs in the form of an exogenous adjustment to their price cap formula must overcome a rebuttable presumption that no additional recovery is justified.¹⁵ This requirement places a relatively high burden on the carriers to demonstrate that the costs incurred by implementing thousands-block number pooling, as discussed in the order, exceed the savings. Part of this burden includes justifying the carriers' cost savings calculation in a manner consistent with the discussions of those savings in the *Third Report and Order* and in preceding orders in the docket.

7. We find that BellSouth's thousands-block number pooling transmittal raises substantial questions of lawfulness and warrants an investigation of this tariff.¹⁶ These questions include, but are not limited to, the following: whether BellSouth has adequately demonstrated that its cost to implement thousands-block number pooling exceeds the cost savings as addressed in the *Third Report and Order* and whether all operations support systems (OSS) costs claimed by BellSouth are eligible for recovery. We further find that the petitions of AT&T and WorldCom raise questions of lawfulness similar to those identified above, and further support the suspension and investigation of BellSouth's Transmittal No. 629.

8. After reviewing the transmittal, petitions, and replies, we conclude that BellSouth's Transmittal No. 629 raises substantial questions of lawfulness warranting suspension and investigation. BellSouth has not provided sufficient cost justification and other support to permit a full assessment of the reasonableness of the proposed charges. As proposed, BellSouth does not meet its burden of proof necessary to rebut the Commission's presumption that no additional recovery is justified.

9. We therefore suspend BellSouth's Transmittal No. 629, in its entirety, for five months and set it for investigation. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this order.

10. We also deny BellSouth's request to strike and disregard AT&T's petition. We find AT&T's explanation reasonable and note that BellSouth was timely served in its Washington office and able to file a timely reply to the petition. Under these circumstances, we decline to disregard AT&T's petition.

¹⁴ *Id.*

¹⁵ *Third Report and Order*, 17 FCC Rcd at 271.

¹⁶ 47 U.S.C. § 204(a).

IV. EX PARTE REQUIREMENTS

11. This investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁷ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b).

V. ORDERING CLAUSES

12. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, the revisions filed by BellSouth Telecommunications, Inc., under Transmittal No. 629, IS SUSPENDED for five months and an investigation IS INSTITUTED.

13. IT IS FURTHER ORDERED that BellSouth Telecommunications, Inc. SHALL FILE a supplement within five business days from the release date of this order reflecting the suspension. The carrier should cite the "DA" number on the instant order as the authority for the filing.

14. IT IS FURTHER ORDERED that AT&T Corp.'s petition to reject or to suspend and investigate BellSouth Telecommunications, Inc. Tariff FCC No. 1, Transmittal No. 629 and WorldCom, Inc.'s petition to reject or to suspend and investigate BellSouth Telecommunications, Inc. Tariff FCC No. 1, Transmittal No. 629 ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Clifford Rand
Deputy Chief, Pricing Policy Division
Wireline Competition Bureau

¹⁷ See 47 C.F.R. § 1.1206(b)(2), as revised.